REMARKS

Claims 16, 17, and 56 are pending. Applicants have cancelled claim 17 without prejudice or disclaimer. Claims 16 and 56 will therefore be pending upon entry of the proposed amendment.

The foregoing amendment, which introduces no new matter, is being made for the sole purpose of expediting prosecution of the present application; and Applicants expressly reserve the right to pursue any cancelled subject matter in one or more continuing applications.

Entry of the foregoing amendment is respectfully requested as this amendment raises no new issues that will require further consideration or search on the part of the Office. Rather, the foregoing amendment seeks to cancel a finally rejected claim. It is therefore submitted that the foregoing amendment is in compliance with 37 C.F.R. 1.113(b) and 37 C.F.R. 116(b).

Rejection under 35 U.S.C. § 112, second paragraph

Claim 17 is rejected under 35 U.S.C. § 112, second paragraph for allegedly being indefinite. The recitation of "chemokine mediated" appears to be the basis for the rejection.

Applicants respectfully disagree with the grounds for the rejection; however, to expedite prosecution of the present application, Applicants have cancelled claim 17, thus rendering the rejection moot.

Double Patenting

According to page 2 of the Office Action:

> The provisional rejection under the judicially created doctrine of obviousness type double patenting is now made into nonprovisional double patenting because the copending claims have been issued. Claim 1 of US 7,709,500 generically embraced the instant compounds when R9 is substituted thiazole. The copending claims were allowed based on applicants argument that 'If an earlier filed application has claims that are conflicting with those in a later filed application, and a provisional double patenting rejection is the only rejection remaining in the earlier filed application, then the Office should withdraw the double patenting rejection in the earlier filed application and allow it to issue without a terminal disclaimer ...' ... No acceptable terminal disclaimer was filed in the instant application.

Applicants respectfully disagree with the grounds for the rejection, however for the sole purpose of expediting prosecution[1], Applicants submit herewith a terminal disclaimer that waives and disclaims the terminal part of any patent granted on the subject application which would extend beyond the expiration date of the full statutory term, including statutory extensions thereof, of U.S. Patent No. 7,709,500. In view of the foregoing, Applicants respectfully request that the rejection be reconsidered and withdrawn.

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[1] See MPEP § 804.02, which provides "[t]he filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

No fee is believed due. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 06275-0518US1 / 101318-1P US/R&I.

Respectfully submitted,

Date: December 1, 2010

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